IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.641-MA of 2006
Date of Decision: December 15, 2006

State of Haryana

.....Appellant

VERSUS

Monu @ Motta son of Sh.Krishan Lal, resident of H.No.170, Chopra Garden, Yamunanagar.

.....Respondent

CORAM:- HON'BLE MR.JUSTICE K S GAREWAL
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr. PS Sullar, Deputy Advocate General, Haryana.

R S MADAN, J.

In brief, the facts of the case are that accused-Monu was tried by the Court of the learned Sessions Court, Yamunanagar in a Sessions Case No.28 of 27-5-2002 decided on 1-8-2006 for causing knife injuries to Baldev Raj on the evening of 7-3-2002 at about 8.00 P.M. near Anil Karyana Store. Ashwani Kumar @ Kaka, Bachhe Lal and Banti also gave him beatings. On raising raula, PW Gulzar Singh son of Bal Mukand, resident of Joginder Nagar arrived at the spot and shifted the injured to the hospital with the assistance of his brother, namely, Ravinder Kumar. The doctor examined the patient and referred him to PGI, Chandigarh for

more specialized treatment. However, the members of his family shifted him to Gaba Hospital, Yamunanagar for treatment. On the basis of the MLR prepared by the Medical Officer, the victim had suffered a single injury, which was kept under observation and was later declared grievous which could even be dangerous to life. On the aforesaid facts, a case under Sections 323 and 307 read with Section 34 of the Indian Penal Code was registered against the appellant.

The accused was charged under Section 307 of the Indian Penal Code. The aforesaid charge was read over and explained to him, to which he pleaded not guilty and claimed trial.

During the course of trial, the prosecution relied upon the testimony of 11 PWs i.e.PW1-Dr.Ashwani Bhatnagar; PW2-ASI Prem Singh; PW3-Dr.Seema; PW4-Dr.BS Gaba; PW5-Constable Ram Kumar; PW6-SI Shamsher Singh; PW7-Baldev Raj; PW8-Ravinder Kumar; PW9-ASI Yash Pal, PW10-H.C.Jai Pal Singh and PW11-Gulzar and closed the prosecution evidence.

After the case of the prosecution was closed, the statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, in which the entire incriminating evidence was put to him, to which he denied and pleaded false implication. .

In defence, the accused had examined DW1-Ramji Lal and closed the defence evidence.

After going through the prosecution evidence, the learned Sessions Judge did not find favour with the prosecution version and acquitted the accused under Section 307 of the Indian Penal Code but convicted him for the commission of offence punishable under Section 324

of the Indian Penal Code.

Heard.

After evaluating the evidence, the learned Sessions Judge was of the view that the accused in this case remained in custody during trial for a period of 52 days. Accordingly, the accused was sentenced to the period allegedly spent by him in jail but he was further sentenced to pay a sum of Rs.5,000/- as fine and in default of payment of fine, he was ordered to undergo further rigorous imprisonment for a period of three months.

Learned State counsel sought leave to appeal on the ground of awarding inadequate punishment under Section 324 of the Indian Penal Code but he is unable to convince us that the sentence awarded by the learned Sessions Judge, Yamunanagar is inadequate. The accused has already faced the agony of trial for more than 4-1/2 years and remained in custody for a period of 52 days. Hence, sentence awarded by the trial Court is justified in the circumstances of the case.

Accordingly, no ground for leave to appeal is made out and the same is hereby dismissed.

(R S MADAN)
JUDGE

(K S GAREWAL)
JUDGE

December 15, 2006
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